

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

TOM BUDNICK,

Plaintiff,

vs.

DOUG CLARK, WEST
SPRINGFIELD MA PD,
BAYSTATE NOBLE HOSPITAL
CORPORATION and THE
PROVIDENCE HOSPITAL, INC,

Defendants.

NO. 2:17-cv-00013-JLQ

ORDER DENYING MOTION AND TO
DISMISS ACTION

By Order filed February 22, 2017, the Court dismissed Plaintiff's claims against Defendants located in the State of Massachusetts and directed Plaintiff to show cause why his claims against the remaining Defendant should not be dismissed for failure to state a claim under 42 U.S.C. § 1983. ECF No. 4. Plaintiff, a resident of the State of Massachusetts, is proceeding *pro se* and has paid the \$400.00 filing fee to commence this action.

On February 24, 2017, before it would have been possible for Plaintiff to have received and responded to the Court's Order, Plaintiff filed an Amended Complaint. ECF No. 5. As a general rule, an amended complaint supersedes the original complaint and renders it without legal effect. *Lacey v. Maricopa County*, 693 F.3d 896, 927 (9th Cir. 2012). Therefore, "[a]ll causes of action alleged in an original complaint which are not alleged in an amended complaint are waived." *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir.

1 1987)(citing *London v. Coopers & Lybrand*, 644 F.2d 811, 814 (9th Cir. 1981)),
2 overruled in part by *Lacey*, 693 F.3d at 928 (any claims voluntarily dismissed are
3 considered to be waived if not repled). Furthermore, Defendants not named in an
4 amended complaint are no longer defendants in the action. *See Ferdik v. Bonzelet*, 963
5 F.2d 1258, 1262 (9th Cir. 1992).

6 The Amended Complaint names only Defendants located in the State of
7 Massachusetts. For the reasons set forth in the Court's prior Order, there is no basis for
8 this Court to exercise jurisdiction over the named Defendants and the Amended
9 Complaint is subject to dismissal under 28 U.S.C. § 1406(a).

10 In addition, rather than show cause as directed, Plaintiff filed a 68 page Motion for
11 Extension of Time on March 22, 2017, ECF No. 6. This motion, including more than 30
12 pages of exhibits, was considered without oral argument on the date signed below.

13 Plaintiff seeks additional time to answer the Order to Show Cause and to amend his
14 complaint. He presents no facts which would persuade this Court that additional time is
15 warranted, or that he would limit his claims as directed in the Order to Show Cause.

16 The decision to grant an extension of time is discretionary with the Court. Fed. R.
17 Civ. P. 6(b). There being no reason to further entertain Plaintiff's assertions, **IT IS**
18 **ORDERED** the Motion, ECF No. 6, is **DENIED** and Plaintiff's Amended Complaint,
19 ECF No. 5, is **DISMISSED without prejudice**. *See In re Hall*, 939 F.2d 802, 804 (9th
20 Cir. 1991).

21 **IT IS SO ORDERED.** The Clerk of Court is **DIRECTED** to enter this Order,
22 enter judgment of dismissal without prejudice, forward a copy to Plaintiff, and close the
23 file.

24 **DATED** this 30th day of March 2017.

25 s/ Justin L. Quackenbush
26 JUSTIN L. QUACKENBUSH
27 SENIOR UNITED STATES DISTRICT JUDGE